

39-6-64 Sentence set aside -- Rights restored.

- (1) Under rules prescribed by the governor or the adjutant general all rights, privileges, and property affected by an executed portion of a military court sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and the executed part is included in a sentence imposed upon the new trial or rehearing.
- (2) If a previously executed sentence of bad conduct discharge is not imposed in a new trial, the governor shall substitute a discharge authorized for administrative issue, unless the accused is serving the remainder of his enlistment.
- (3)
 - (a) If a previously executed sentence of dismissal is not imposed in a new trial, the governor shall substitute a discharge authorized for administrative issue.
 - (b) The commissioned officer dismissed by the sentence may be reappointed by the governor to the grade and rank he had attained, if a position is available under applicable organization.
 - (c) Time between the dismissal and reappointment is considered service for all purposes.

Amended by Chapter 9, 1988 Special Session 2

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